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15 Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
17 DISTRICT OF NEVADA

18 ISABEL APARECIDA AULER, an
19 individual, CARLOS ALBERTO
20 RODRIGUES DE FREITAS an
21 individual.

22 Plaintiffs,

23 vs.

24 THE HERTZ CORPORATION, a
25 Delaware corporation, ROBERT
CHARLES STEVENS, an individual,
and DOES 1- 10 inclusive
Defendants,

Case No.:

COMPLAINT FOR DAMAGES

(Counsel will comply with
LR IA 11-2 within 45 days)

JURY DEMAND

PLAINTIFFS ALLEGE AS FOLLOWS:

Attorney Jonathan C. Capp has complied with LR IA 11-2.

PARTIES

1.1 Plaintiff ISABEL APARECIDA AULER (hereinafter 'ISABEL'), is, and at all material times was, an individual resident in and a citizen of the country of Brazil

1.2 Plaintiff CARLOS ALBERTO RODRIGUES DE FREITAS (hereinafter 'CARLOS'), is, and at all material times was, an individual resident in and a citizen of the country of Brazil. At all material times CARLOS and ISABEL lived together in a legal union substantially equivalent to that of a Nevada domestic partnership and had done for decades beforehand.

1.3 Defendant THE HERTZ CORPORATION (hereinafter 'HERTZ'), is, and at all material times was, a Delaware corporation and also listed as a foreign corporation in the State of Nevada. At all material times HERTZ operated as a car rental company nationwide and from a location in Las Vegas at McCarran Airport and within the jurisdiction of the court.

1.4 Defendant ROBERT CHARLES STEVENS (hereinafter 'STEVENS') was an individual resident of Long Beach, California and a citizen of the State of California.

1.5 The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1 thru 10 inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs are informed, believe and thereon allege that each of the Defendants designated herein as fictitiously named Defendants are in some manner responsible for the events and happenings referred to and caused the damages as alleged herein. When Plaintiffs ascertain the true names and capacities of DOES 1 thru 10 inclusive it will ask leave of the Court to amend the Complaint by setting forth the same.

1.6 Plaintiffs are informed and believes and thereon alleges that, at all time relevant to this Complaint, each Defendant was the agent, employee, partner, associate, joint venturer, syndicate member, successor in interest, and/or acting in concert with, and under the direction and control of each remaining Defendant and

1 in doing the things alleged in this Complaint, each Defendant was acting within the
2 course and scope of said relationship.

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5 **JURISDICTION AND VENUE**
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7 2.1 Jurisdiction is proper with his court in that there is diversity of
8 citizenship and the matter in controversy exceeds the sum of \$75,000.00 pursuant to
9 28 U.S.C. § 1332. Plaintiffs are citizens and residents of Brazil and defendant HERTZ
10 is a citizen of Delaware and Defendant STEVENS a citizen of California

11 2.2 This court is the correct venue to hear this matter as the matters
12 complained of occurred primarily within this judicial district.

13
14
15 **FACTUAL ALLEGATIONS**
16

17 3.1 On or around December 24, 2016 Plaintiffs arrived in Los Angeles on
18 vacation from Brazil. They rented a car, a 2016 Hyundai Santa Fe vehicle, from
19 HERTZ at Los Angeles International airport and drove the same to Las Vegas
20 Nevada.

21 3.2 On or around January 1, 2017 Plaintiffs returned the car to HERTZ at the
22 HERTZ car return area located close to McCarran Airport in Las Vegas, Nevada.
23 They both were lawfully present as customers of HERTZ in the car return area which
24 was under the control of HERTZ thru its agents and employees.

25 3.3 CARLOS parked the car in a designated car return lane. When both were
standing on the passenger side of the Hyundai Santa Fe, and between two lanes of
cars that were stationary and being returned, and when they were in the course of
returning the car, Plaintiffs were struck and impacted by a car driven by STEVENS.

1 3.4 STEVENS was also a customer of HERTZ and who was returning a 2017
2 Hyundai Sonata to HERTZ at the said location. STEVENS struck ISABEL and
3 CARLOS with the Hyundai Sonata he was driving such that ISABEL was thrown into
4 the air and onto the concrete floor of the return area. Instead of breaking, as he should
5 have done, STEVENS accelerated and drove into ISABEL and CARLOS. STEVENS
6 was not paying due care and attention when, amongst other things, he accelerated
7 instead of breaking.

8 3.5 STEVENS was able to strike Plaintiffs since the return lanes where they
9 was present were excessively and dangerously wide and permitted STEVEN's car to
10 pass thru the cars situated on the same and strike Plaintiffs. Furthermore STEVENS
11 simply ploughed through the plastic cones placed by HERTZ upon the lanes.

12 3.6 At all material times the return area where the matters complained of
13 occurred were controlled by HERTZ. Furthermore the delineation and maintenance of
14 the lanes and the cones, and the system operated whereby the cars were returned, were
15 wholly designed by, created by, maintained by, and controlled by HERTZ or their
16 agents. Wholly inadequate warnings were given as to the dangerous condition of the
17 return area and procedures employed were unsafe. The area where Plaintiffs were
18 struck and injured, and close to where they were struck, was not safe and was not
19 properly controlled, delineated, or protected. HERTZ by their actions left Plaintiffs
20 wholly exposed to foreseeable danger.

21 3.7 As a result of her being struck, ISABEL suffered serious injuries. She
22 was hospitalized in Las Vegas and also upon returning to Brazil. She has been
23 permanently damaged both physically and emotionally as a result.

24 3.8 Plaintiffs have suffered loss and damage and to include pain and suffering,
25 physical and extreme emotional distress, financial loss, and other damage.

 3.9 Plaintiffs' injuries were solely caused by the acts of Defendants. There
was no contributory negligence on the part of Plaintiffs. The danger was not open and
obvious to Plaintiffs who exercised all due care at all times.

1 accident they were very healthy and active. Plaintiffs have suffered, and continue to
2 suffer, substantial pain and suffering and severe emotional distress and upset.

3
4 4.8 The injuries and damages resulting therefrom, occurred as the result of the
5 careless, reckless and negligent conduct of the Defendant, and without any fault on
6 the part of Plaintiffs, and who failed to operate the car he was driving in a safe manner.
7 Defendant's careless, reckless, and negligent conduct was a cause of Plaintiffs'
8 injuries.

9
10 **THIRD CAUSE OF ACTION**
11 **FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS BY**
12 **PLAINTIFF CARLOS AGAINST DEFENDANTS HERTZ AND STEVENS**

13
14 4.9 Plaintiff incorporates by reference all paragraphs above with the same
15 force and effect as if more fully set forth here, and further allege:

16 4.10 Plaintiff was standing right next to ISABEL when she was struck as
17 described above. As a result of this he has witnessed her in severe physical
18 and emotional distress as a result of her injuries.

19 4.11 As a result of the matters complained of Plaintiff CARLOS has suffered
20 and continues to suffer severe emotional distress, upset and hurt, financial loss, and
21 loss of consortium.

22
23 **FOURTH CAUSE OF ACTION**
24 **FOR LOSS OF CONSORTIUM BY PLAINTIFF CARLOS AGAINST**
25 **DEFENDANTS HERTZ AND STEVENS**

4.12 Plaintiff incorporates by reference all paragraphs above with the same
force and effect as if more fully set forth here, and further allege:

